



DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Docket No. FTA–2016–0038

Notice of Buy America Waiver for Radio Consoles.

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of Buy America waiver.

SUMMARY: In response to Greater Dayton Regional Transit Authority’s (GDRTA) request for a Buy America non-availability waiver for the procurement of radio consoles, which would be a part of GDRTA’s new communication system (“radio consoles”), the Federal Transit Administration (FTA) hereby waives its Buy America requirements, finding that the materials for which the waiver is requested are not produced in the United States in sufficient and reasonably available quantities and of satisfactory quality. This waiver is limited to a single procurement by GDRTA for the radio consoles.

DATES: This waiver is effective immediately.

FOR FURTHER INFORMATION CONTACT: Cecelia Comito, FTA Assistant Chief Counsel, at (202) 366-2217 or cecelia.comito@dot.gov.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that FTA has granted a Buy America non-availability waiver for GDRTA for the procurement of radio consoles under 49 U.S.C. § 5323(j)(2)(B) and 49 CFR § 661.7(c).

With certain exceptions, FTA’s Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless “the steel, iron, and manufactured goods used in the project are produced in the United States.” 49 U.S.C. §

5323(j)(1). A manufactured product is considered produced in the United States if: (1) all of the manufacturing processes for the product take place in the United States; and (2) all of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR § 661.5(d). If, however, FTA determines that “the steel, iron, and goods produced in the United States are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality,” then FTA may issue a non-availability waiver. 49 U.S.C. § 5323(j)(2)(B); 49 CFR § 661.7(c). “It will be presumed that the conditions exist to grant this non-availability waiver if no responsive and responsible bid is received offering an item produced in the United States.” 49 CFR § 661.7(c)(1).

In January 2014, GDRTA conducted a technology scope development project to determine how technology enhancements could improve its operational efficiency; this included a voice and data communication alternatives analysis. GDRTA comprehensively examined various technologies available for its voice and data communication needs. GDRTA compared and evaluated the differences between radio and cellular-based communication, including a cost analysis, reliability assessment, and long-range maintenance and operational differences. On August 5, 2014, the GDRTA Board approved the adopted of a mixed communication system for the agency, which would employ both voice and cellular data systems. GDRTA would join Montgomery County’s 800MHz analog trunked system, instead of continuing to own a 450 MHz radio system.

Montgomery County’s analog system uses proprietary Motorola SmartNetTrunking, and all equipment must be original equipment manufacturer (OEM) Motorola devices. All equipment also must be programmed to use the County’s 800MHz analog system and have the

ability to work on the MARCS 800 MHz digital system without any additional hardware. In November 2014, GDRTA purchased Motorola mobile and portable radios for its supervisors and its diesel, trolley, paratransit, maintenance, and support vehicles. The procurement and installation of the radio consoles is the final step to move GDRTA's communication system to Montgomery County's system.

Motorola manufactures equipment both domestically and overseas. While the voice processing module portion of the radio consoles currently are manufactured in Illinois, the other components are manufactured in Mexico. Thus, GDRTA submitted a waiver request based on non-availability under 49 CFR § 661.7(c)(1).

On Tuesday November 1, 2016, and in accordance with 49 U.S.C. § 5323(j)(3)(A), FTA published a notice in the **Federal Register** announcing the Buy America waiver request (81 FR 211) seeking comment from all interested parties, including potential vendors and suppliers. The comment period closed on November 15, 2016, and no comments were received.

Therefore, based on the information supplied in support of GDRTA's request for a Buy America waiver for the radio consoles, FTA hereby waives its Buy America requirements for the radio consoles on the grounds that the manufactured product is not available in the U.S. This waiver is limited to a single procurement for the radio consoles by GDRTA.

Ellen Partridge
Chief Counsel

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